

Gaming Commission Regulations

Regulation # R400-04:GC-12

Chapter 12. Class I, Class II and Charitable Gaming Permitted

Section 1. Purpose; Authority

1-1. *Purpose.* It is the purpose of this regulation to provide authority for Class I and Class II gaming on Tribal lands.

1-2. *Authority.* This regulation is issued under and pursuant to the authority of the Little River Band of Ottawa Indians Gaming Ordinance, Commission 's Ordinance, Gaming Commission Ordinance, IGRA, Tribal-State Compact, Constitution of the Little River Band of Ottawa, and 25 USC Section 2703 et seq.

Section 2. Definitions

2-1. *General.* For purposes of this regulation, certain terms are defined in this Section. The word shall is always mandatory and not merely advisory. Unless defined elsewhere, terms defined in the Minimum Internal Control Standards, the Gaming Ordinance and the Gaming Commission Ordinance are defined for the purpose of all regulatory agency's regulations. The definitions in this regulation shall apply to all sections of this part unless otherwise noted.

2-2. *Class I Gaming.* The Term "Class I Gaming" means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.

2-3. *Class II Gaming.* The term "Class II Gaming" means—

- a. The game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith) –
 - i. which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,
 - ii. in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and
 - iii. in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and
- b. card games that –
 - i. are explicitly authorized by the laws of the State, or
 - ii. are not explicitly prohibited by the laws of the State and are played at any location in the State, but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.
- c. The term "Class II Gaming" does not include –
 - i. any banking card games, including baccarat, chemin de fer, or blackjack (21), or
 - ii. electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.
- d. Notwithstanding any other provision of this paragraph, the term "Class II Gaming" Includes those card games played in the State of Michigan, the State of North Dakota, the State of South Dakota, or the State of Washington, that were actually operated in such State *Class I Gaming* by an Indian tribe on or before May 1, 1988, but only to the

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extent of the nature and scope of the card games that were actually operated by an Indian tribe in such State on or before such date, as determined by the Chairman.

e. The term "Class II Gaming" includes any other games authorized by Federal law or by the Tribal-State Compact.

2-4. *Charitable Gaming.* Charitable Gaming shall mean gaming intended to foster and assist Indian Charitable Organizations and the good works they perform for the community.

Section 3. Construction and Application of the Regulations.

3-1. Construction and Amendments.

a. These regulations shall be liberally construed to permit the regulatory agency to effectively carry out its statutory functions and secure a just and expeditious determination of issues properly presented to the regulatory agency.

b. These regulations may be amended by the regulatory agency from time to time in accordance with the provisions of the Gaming Ordinance, Gaming Commission Ordinance and any regulation promulgated by the regulatory agency.

3-2. Severability and Preemption.

a. If any clause, sentence, subparagraph, paragraph, subsection, section, chapter or other portion of these regulations or the application thereof to any person or circumstance shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of these regulations or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, subsection, section, chapter or other portion thereof directly involved in such holding or to the person or circumstances therein involved.

b. The regulatory agency shall have jurisdiction over all matters delegated to it or within the scope of its powers under the provisions of the Gaming Ordinance, Gaming Commission Ordinance and these regulations.

Section 4. Permitted Class I Gaming.

4-1. *Class I Gaming.* Class I traditional games are permitted to the extent consistent with Tribal custom and practice. The regulatory agency may prohibit and prevent any conduct which is claimed to be Class I gaming if it finds that such conduct is not in accordance with tribal customs or practices or violates the IGRA or other applicable gaming law. A decision of the regulatory agency whether to permit Class I gaming shall be final and may not be appealed. The regulatory agency reserves the right to inspect the premises where the Class I game is held and to obtain and review financial information concerning the game in order to determine whether it meets the definition of Class I gaming. Class I games may be subject to other Tribal ordinances and regulations designed to protect the health and welfare of Tribal members.

Section 5. Permitted Class II Gaming.

5-1. *Class II Gaming.* Class II gaming may be permitted by the regulatory agency. Any Class II gaming shall conform to all requirements of IGRA and any other Tribal, federal or state gaming rules.

5-2. *License Required.* A license authorizing a Class II game is required. If Class II gaming activity is held at more than one site, a separate license shall be required for each building or location where Class II gaming is conducted.

5-3. *Gross Gaming Revenue.* For card games, tournaments and any other games in which the casino is not a party to a wager, gross gaming revenue shall include all money received as compensation for conducting the game, (i.e., rake, commissions, entry fees and admission fees).

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Section 6. Community Charitable Gaming.

6-1. *Policy.* It is the policy of the Little River Band of Ottawa Indians to foster and assist Indian Charitable Organizations and the good works they perform for the community. To this end, the regulatory agency may allow Indian Charitable Organizations to use certain forms of gaming to raise money for their charitable purposes and to provide a healthy social outlet for members of such groups and their friends. The regulatory agency shall regulate charitable gaming carried out by an Indian Charitable Organization so as to promote the general health and safety of the Tribe and to assure that such gaming is operated honestly, with high integrity, and in accordance with the highest standards.

6-2. *Permitted Games.* Indian Charitable Organizations may operate the games of pull-tabs and bingo for the purposes set forth in Section 6-1 above.

6-3. *License Required.* Indian Charitable Organizations shall obtain a license from the regulatory agency in accordance with Section 7 below, and all charitable gaming operations shall be subject to IGRA and applicable Tribal, federal and state gaming rules.

Section 7. Licensing

7.1. *No License Required for Class I Gaming.* Class I gaming may be conducted on Indian land without a license. The Commission may investigate such activity to ensure that it meets all requirements for Class I gaming in accordance with Section 4 above.

7.2. *Licensing of Class II Gaming.*

(1) A separate license shall be required for each place, facility, or location on Indian land at which any Class II gaming is conducted.

(2) The regulatory agency may license a Tribally owned Class II gaming establishment if:

- (a) such establishment is located on tribal land;
- (b) the State of Michigan continues to permit such gaming for any purpose by any person, organization or entity, and such gaming is not otherwise specifically prohibited on Indian land by federal law;
- (c) subject to any management contract approved, the Tribe has the sole proprietary interest and responsibility for the conduct of such gaming;
- (d) net revenues from such gaming are used in accordance with applicable gaming rules;
- (e) such gaming activity is subject to annual outside audits, which may be encompassed within existing independent Tribal audit system;
- (f) all contracts for supplies, services or concessions for any aggregated amount in excess of \$25,000 annually relating to such Class II gaming (except contracts for legal or accounting services) are also subject to independent audits;
- (g) the construction and maintenance of the gaming facility, and the operation of the gaming, is conducted in a manner which adequately protects the environment and the health and safety of the public;
- (h) background investigations are conducted on all Primary Management Officials, Key employees and gaming consultants of the Class II gaming operation in the same manner as for a Class III gaming facilities; and
- (i) oversight of Primary Management Officials, Key employees, gaming consultants and their management, is conducted on an ongoing basis;
- (j) any license issued shall be non-transferable and may not be assigned.